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9 UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

10 DREE ANN CELLEMME,

11 Plaintiff,

12 v.

13 MERRICK GARLAND, in his official  
14 capacity as Attorney General of the United  
15 States,

16 Defendant.

Case No. 2:16-cv-02539-JAD-DJA

**ORDER GRANTING  
JOINT MOTION TO CONTINUE  
STAY**

ECF No. 79

17 Defendant Merrick Garland ("Defendant") and Plaintiff Dree Ann Cellemme  
18 ("Plaintiff") hereby stipulate to, and jointly move for, an order continuing the stay of the  
19 proceedings. The facility that processes discovery for the Federal Bureau of Investigation  
20 ("FBI") has yet to resume normal operations due to the COVID-19 pandemic, thereby  
21 hampering the agency's ability to timely process discovery requests. This motion is supported  
22 by the case law cited herein and the attached declaration.

23 / / /  
24

1 **BACKGROUND**

2 Plaintiff filed suit under Title VII of the Civil Rights Act and the Rehabilitation Act.  
3 (ECF No. 43, at ¶¶ 41-87). She asserts claims for gender and disability discrimination based  
4 on various personnel actions taken by the FBI, including discharging her from her  
5 employment with the agency. (*Id.*).

6 On April 3, 2020, FBI counsel advised that the agency was unable to process  
7 discovery requests because all staff within the agency's Discovery Management Section  
8 ("DMS") were on administrative leave due to the COVID-19 crisis. (ECF No. 77-2 pp. 1-6).

9 On April 20, 2020, the Court granted the parties' request to stay the proceedings.  
10 (ECF No. 78).

11 On May 13, 2021, the FBI advised that it is still hampered in its ability to process  
12 discovery matters in a timely manner based on a number of factors, including the inability of  
13 FBI staff to return to their duty stations at once, numerous exposures of staff assigned to  
14 handle discovery matters, the need to work reduced and alternate schedules in response to  
15 the COVID-19 pandemic, and numerous disruptions that have occurred within the  
16 Washington, D.C. area that have limited access to FBI headquarters. (Crum Decl. ¶ 12).

17 **ARGUMENT**

18 **A. Good cause exists to continue the stay of the proceedings because the FBI has not**  
19 **yet resumed normal operations due to the COVID-19 pandemic.**

20 A district court has broad discretion to stay proceedings incidental to its power to  
21 control its own docket. *Landis v. North Am. Co.*, 299 U.S. 248, 254 (1936); *see also CMAX, Inc.*  
22 *v. Hall*, 300 F.2d 265, 268 (9th Cir. 1962) (district courts possess "inherent power to control  
23 the disposition of the causes on its docket in a manner which will promote economy of time  
24 and effort for itself, for counsel, and for litigants"). A district court may stay proceedings

1 where the moving party demonstrates good cause. *Libutan v. MGM Grand Hotel LLC*, 2020  
2 WL 1434440, at \*2 (D. Nev. Mar. 24, 2020).

3 Here, the FBI's ability to timely process discovery requests has been hindered as a  
4 result of the COVID-19 pandemic, as explained above. (Crum Decl. ¶ 12). Under the  
5 circumstances, a continuation of the stay of the proceedings is warranted. *See Libutan*, 2020  
6 WL 1434440, at \*2 (extenuating circumstances caused by the COVID-19 virus establish good  
7 cause to stay the proceedings); *Garbutt v. Ocwen Loan Servicing, LLC*, 2020 WL 1476159, at \*2  
8 (M.D. Fla. Mar. 26, 2020) (finding good cause exists to stay the proceedings "based on the  
9 disruption to business caused by the spread of COVID-19").

### 10 CONCLUSION

11 For the reasons argued above, a continuation of the stay is warranted.

12 Respectfully submitted this 26th day of May 2021.


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15 s/ Holly A. Vance  
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s/ Dylan T. Ciciliano  
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Counsel for Plaintiff

### 17 ORDER

18 It appears that a stay is warranted for the reasons sated in tis motion. Accordingly, IT IS  
19 HEREBY ORDERED that the Joint Motion to Continue Stay [ECF No. 79] is **GRANTED**.  
20 The stay of this case is extended for all purposes until discovery operations at the FBI reopen.  
21 The FBI must file a motion to lift stay within five days of discovery operations resuming.

22   
23 U.S. District Judge Jennifer A. Dorsey  
24 Dated: May 31, 2021